

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

YVETTE FELARCA, et al.,
Plaintiffs,

v.

ROBERT J. BIRGENEAU, et al.,
Defendants.

Case No.: 11-CV-5719 YGR

**ORDER:
GRANTING MOTION TO DISMISS
(DKT. NO. 221);
GRANTING MOTION FOR JUDGMENT
ON THE PLEADINGS (DKT. NO. 224); AND
DENYING MOTION FOR LEAVE TO
AMEND COMPLAINT (DKT. NO. 232)**

On August 11, 2014, Defendant Marc DeCoulode moved to dismiss Plaintiffs' claims under the First Amendment and for false arrest as stated in their Third Amended Complaint ("TAC," Dkt. No. 217). The false arrest claims against him were previously dismissed without leave to amend.

On that same date Defendants Garcia and Obichere of the Alameda County Sheriff's Office moved to strike the false arrest claims against them in the TAC. Those claims, too, were previously dismissed without leave to amend.

The motions were opposed and came on regularly for hearing on September 16, 2014.

For the reasons as stated on the record and stated herein, the motions of DeCoulode, Garcia and Obichere are **GRANTED**.

Plaintiffs' TAC was filed without leave of Court and after the Court had dismissed claims against Defendants DeCoulode, Garcia, and Obichere without leave to amend. (Dkt. No. 180, 181.) The Court's order on the prior Decoulode motion specifically directed Plaintiffs to file a motion for leave to amend if they discovered new facts that would support a claim. (See 9/6/13 Order Granting Motion To Dismiss Claim of False Arrest Against Defendant Marc Decoulode, Dkt. No.

1 180, at 3 [“Should Plaintiffs ascertain sufficient facts to state a claim for false arrest against
2 DeCoulode, they may file a motion for leave to amend specifically setting forth the allegations they
3 seek to add to the complaint and the authorities supporting liability based on such allegations.”].)
4 Plaintiffs failed to do so.

5 Moreover, as Plaintiffs concede in their opposition to the motion by Garcia and Obichere,
6 they have no claim against Garcia, and the amendments in the TAC did not include specific
7 allegations supporting a claim of false arrest against Obichere.

8 Further, Plaintiffs’ Third Motion for Leave To Amend Complaint (Dkt. No. 232) fails to
9 explain adequately the basis for amending to add the new allegations listed therein. That motion is
10 **DENIED.**

11 Should Plaintiffs seek leave to amend to add allegations against these or other defendants,
12 they are directed to file a motion *no later than September 23, 2014*. Such motion must sufficiently
13 set forth: (1) the new allegations; (2) the reasons those allegations address the defects identified in
14 any prior order related to claims against the named defendant(s); (3) the reasons for Plaintiffs’
15 delay in making the allegations; and (4) facts demonstrating that there is good cause for permitting
16 such amendment after the Court’s established deadline for amending the complaint.

17 This Order terminates Docket Nos. 221, 224, and 232.

18 **IT IS SO ORDERED.**

19 Date: September 18, 2014

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YVONNE GONZALEZ ROGERS
21 UNITED STATES DISTRICT COURT JUDGE
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